

Belanger, Jean-Marie

From: Sarazin, Danielle
Sent: March 24, 2014 03:03 PM
To: Joyce, Niky; Gokey, Marie Elizabeth; Cordina, Stephanie; Lane, Christian
Cc: Mackenzie, Joey
Subject: Latest version of After-Incident Report
Attachments: After Incident Report March_21.docx

Hi,

Further to our teleconference a few minutes ago, attached for your information is the latest version of the After-Incident Report. Bear in mind that it is likely to change since it is still to be seen by many seniors. Please do not distribute further.

Thanks!!

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After Incident Report

Suicide at the BC Immigration Holding Centre

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The image features the Royal Canadian Mounted Police (RCMP) crest, which includes a maple leaf, a bison, and a crown, set against a background of repeating text. The text is arranged in a grid-like pattern where each row contains the words "PROTECTION", "SERVICE", "INTEGRITY", and "PROTECTION" repeated multiple times. The font is a bold, sans-serif typeface.



PROTECTION • SERVICE • INTEGRITY

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Annex 1: Due Diligence Report

Annex 2: Draft Response to Due Diligence Report

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Background

1. Overview of the CBSA's Immigration Detention Program

In order to protect the safety, health and security of Canadians and the integrity of our border, the *Immigration and Refugee Protection Act* permits the CBSA to detain individuals.

When making detention decisions, CBSA officers are guided by Canada's immigration laws and regulations, as well as by CBSA's detention guidelines and national standards.

The detention guidelines contained in Enforcement Manual Chapter 20 require officers to consider all reasonable alternatives before detaining someone for immigration purposes. In fact, the CBSA relies upon a variety of alternative measures to detention when appropriate, allowing a person to be released under specific terms and conditions, such as deposits and guarantees and reporting requirements.

Pursuant to the *Immigration and Refugee Protection Act* (IRPA), detention can occur when:

1. A CBSA officer has reasonable grounds to believe that the person is inadmissible and:
 - could pose a danger to the public;
 - is unlikely to appear for immigration proceedings; or
 - identity has not been established.
2. A CBSA officer has reasonable grounds to suspect, at a port of entry, that the person is inadmissible for security reasons, violating human or international rights, serious criminality, criminality or organized criminality.
3. It is necessary to complete the immigration examination.
4. A foreign national is designated as an irregular arrival by the Minister of Public Safety.

Detention decisions may be reviewed by the CBSA up to 48 hours after the person was detained. The CBSA may release the person and impose conditions for their release. After 48 hours, detention is reviewed by the Immigration and Refugee Board (IRB), an independent quasi-judicial tribunal. Detention is then reviewed seven days and every 30 days thereafter. A different detention review schedule exists for designated foreign nationals. In these cases, detention is mandatory and detention reviews take place within 14 days, then every six months. Detention will continue until a final positive decision is made by the IRB on a refugee claim, or until release is ordered by the IRB or the Minister of Public Safety. Excluded from the mandatory detention are foreign nationals under the age of 16.

Minors are only ever detained as a last resort taking the best interests of the child into consideration. Minors are generally referred to child welfare agencies or, as a last resort, held in CBSA immigration holding centres (IHCs).

People are detained in either a CBSA-run IHC (Laval, Quebec; Toronto, Ontario; a short-term facility in Vancouver, British Columbia) or a provincial correctional facility. Males and females are separated and, when accompanied children are detained they are placed with their mother or female guardian. The CBSA

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relies on provincial correctional facilities to hold higher-risk detainees (i.e., criminal background) and lower-risk detainees in areas not served by an IHC.

As detaining authority, the CBSA is responsible for informing those detained of their legal rights such as: the reason for the arrest and detention; the right to obtain counsel; the right to contact their embassy or the United Nations High Commissioner for Refugees (UNHCR).

For the operation of its IHCs, the CBSA maintains national detention standards that conform, to the greatest extent possible, with international protocols. National detention standards include, for example, a daily minimum of one hour open air exercise, free local telephone calls, access to a qualified religious representative upon request, and special meals provided for medical, dental or religious reasons.

Detainees have access to medical services as required and as a result of their detention, qualify for the Interim Federal Health Program if unable to pay for essential treatment, or are otherwise covered under provincial health care programs.

Program Integrity and Independent Monitoring

The CBSA strives to maintain the highest national standards for program integrity and oversight of its detention program. Its established quality assurance program, as well as numerous internal and external audits and evaluations, ensures that the CBSA consistently strives to meet national detention standards and international protocols.

The Canadian Red Cross, an independent and non-profit organization, monitors immigration detention conditions in each CBSA facility, as well as in correctional facilities in several provinces pursuant to a Memorandum of Understanding with the CBSA, to ensure that national standards and international obligations are met to the fullest extent possible. In fiscal year 2012-13, the Red Cross visited the CBSA B.C. IHC 4 times and, 2 times in fiscal year 2013-14. The Red Cross presents its observations to the CBSA in an annual report.

At the same time, the CBSA regularly consults stakeholders and NGOs, such as the UNHCR, about detention issues and takes their recommendations into account as a means to continuously improve detention conditions.

CBSA National Detention Statistics at a Glance

2012-2013 Detention Snapshot

- **9,571** detentions for an **average of 20 days** (approximately 450-500 individuals detained at any given point in time)
- **6,680 males** and **2,013 females** detained
- **6,122** (70%) detained in CBSA **immigration holding centres**
- **4,128** (47%) detainees were **refugee claimants**
- **267** (2.8%) detainees were **accompanied minors**
- **13** (0.13%) detainees were **unaccompanied minors**

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- \$239 per day per detainee **average cost**
- \$48.7M in **detention expenditures**

2. Overview of CBSA Detention Facilities

The CBSA retains responsibility for all CBSA operations of its detention facilities. However, private security companies are contracted by the CBSA to provide security guard and transportation services including but not limited to:

- The care and control of persons detained under the *Immigration and Refugee Protection Act* (IRPA) at a CBSA immigration holding centre;
- The management and provision of the safe and secure transportation of detainees to and from the immigration holding centre;
- The accompaniment of detainees to ports of entry for their removal and/or to verify their departure from Canada; and
- The performance of other security duties as required by the CBSA.

Determining Suitable Facilities

A person who is detained may be held in a provincial correctional facility or in an Immigration Holding Centre that is administered by the CBSA. In general, the CBSA relies on provincial correctional facilities to detain higher-risk individuals. Where appropriate and practicable, lower-risk detainees will be held at a CBSA Immigration Holding Centre.

CBSA officers and management consider a variety of factors to determine if an individual is suitable for a lower or higher-risk facility. These factors include behaviour, medical needs, mental health issues, criminality, impairment, and/or a history of violence or substance abuse.

The health and safety of those in CBSA care is of paramount concern.

British Columbia Immigration Holding Centre (BCIHC)

The CBSA operates one short term detention facility in Vancouver, British Columbia – the British Columbia Immigration Holding Centre (BCIHC) – located in the Vancouver International Airport, which is authorized to hold a maximum of 24 individuals for detentions of under 72 hours.

Individuals or families held in the BCIHC are awaiting removal, awaiting transfer or recently arrested and detained under IRPA.

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In the BCIHC, clients have access to:

- Telephones: Detainees are free to make local calls (at no cost), including to legal counsel and consulate officials, between 6 a.m. and 11 p.m.. After hours calls are approved at the discretion of the Manager of Detention Operations. Detainees also have the ability to make collect long distance calls. Special time arrangements can be made to accommodate overseas calls.
- Legal counsel: An individual may request access to legal counsel in person or over the phone at any point in time in the detention process.
- Duty counsel: Any individual may obtain free legal services in detention from duty counsel.
- CBSA Detainee Liaison Officer (DLO): The DLO is available to follow up on requests, complaints, and to answer questions about the immigration process for individuals in detention. The DLO is available by phone for any facility in the area and they conduct regular site visits.
- Medical services: Medical personnel are accessible 24/7 and all officers and guards are trained in first aid.
- Religious Services: Accommodations can be made for an individual in detention to practice his or her religion.
- Facilities: Between the hours of 06:00-23:00 cell doors are open and individuals have access to showers, a common area, and washrooms. Each cell includes a toilet, wash basin and water fountain.

Due to the secure location of this facility, visitor access – other than legal counsel, duty counsel and independent human rights groups – is restricted.

Other CBSA Immigration Holding Centres

CBSA has two other immigration holding centres located in Montreal and Toronto, respectively. In these facilities, clients have access to all the items available in the BCIHC, as well as the following:

- Onsite access to medical care and psychological support.
- Telephones are available between 8 a.m. and 10 p.m., with the same conditions as the short-term facility above. Phone cards are also available for purchase.
- Detained individuals can have visits from family members, friends and community groups during daily visiting hours, and may receive mail.
- Recreational facilities, including outdoor spaces, and educational programming and activities are provided, subject to availability.

British Colombia Provincial Detention Facilities:

When an individual is detained for a period over 72 hours (in B.C.), or if they are deemed to be unsuitable for detention in an IHC, they are placed in provincial facilities.

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3. Summary of Incident

Ms. Lucia Dominga Vega Jimenez, a citizen of Mexico, was transferred to the British Columbia Immigration Holding Centre (BCIHC) on December 19, 2013, to facilitate a scheduled removal from Canada on a December 22, 2013 departing flight from Vancouver International Airport. While awaiting deportation Ms. Vega Jimenez attempted suicide on December 20, 2013 and died in hospital as a result of her injuries on December 28, 2013.

Upon notification to senior management of the December 20, 2013 incident at the BCIHC, a formal process was undertaken to provide information to external stakeholders that included notifying the Canadian Red Cross, the Mexican Consulate, the Royal Canadian Mounted Police (RCMP) and British Columbia Corrections.

The RCMP immediately commenced a criminal investigation and concluded on January 28, 2014 that no criminal offence (criminal negligence) had occurred. The B.C. Coroners Service is also investigating and on February 25, 2014 announced it would hold a public inquest relating to her death.

Following the incident, Pacific Region immediately initiated an internal review of its operations which included the establishment of a Post-Incident Working Group. The working group was established to assist in identifying procedural and infrastructure improvements to strengthen the detention program at the BCIHC (*Annex 1 – Due Diligence Report*).

In addition, a national CBSA Directors General-led After Incident Working Group was established to review incident response, identify any operational, policy, procedural, infrastructure and training gaps and to recommend and implement changes where required. The following report and recommendations document the results of the review some of which apply specifically to the BCIHC and others which apply nationally as highlighted in this report. Overall this report is intended to strengthen the CBSA's framework, procedures and practices for detention both nationally and regionally.

Note: A detailed case chronology, including facts surrounding the incident is outlined in the *Due Diligence Report* (Annex 1) prepared by Pacific Region.

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Key Observations and Recommendations

The key observations and recommendations are based on the *Due Diligence Report* (Annex 1), the *Draft Response to the Due Diligence Report* (Annex 2) – both prepared by Pacific Region – and discussions stemming from the national CBSA Directors General-led After Incident Working Group. They are grouped under the following categories:

- Security Contract
- Infrastructure
- Policy
- Procedures / Training

Security Contract

Security services at the BCIHC are provided by Genesis Security Group, a third-party service provider. Security staff employed by Genesis Security are responsible for 24/7 monitoring of the detainees held in the CBSA BCIHC. The CBSA is ultimately responsible for the care and control of detainees: As such, the Region establishes facility-specific standing orders that are aligned with the national detention standards and ensures compliance with those standards in day-to-day operations.

Observation #1:

Immediately following the incident, the BCIHC reaffirmed the requirement that a minimum of two Genesis security guards be onsite at all times including a guard of each gender. This practice along with appropriate guard to detainee ratios (outlined in the national detention standards) both onsite at the IHC and on transportation duty of detainees are not covered in the current contract. The contract does not clearly outline expectations in this respect nor does it identify consequences for non-compliance with security contract requirements.

Recommendation #1:

Security and Professional Standards and Pacific Region should review the existing contract in its entirety and make appropriate changes to ensure precision on CBSA requirements and expectations consistent with the national detention standards and standing orders. Additionally, security contracts for other IHCs (Laval and Toronto) should, upon expiry, be reviewed to ensure same. Operations and Programs branches should also be consulted to ensure amendments to the contracts are accurate, complete and consistent with the applicable recommendations in this report.

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Infrastructure

Observation #2:

A number of security and safety concerns related to the BCIHC's physical infrastructure were identified as a result of direct observations made by Pacific Region in consultation with working group members established soon after the incident. The working group consisted of CBSA staff at the Pacific Region Inland Enforcement Section responsible for the BCIHC, personnel from similar facilities across Canada, Regional Security, and other stakeholders such as Infrastructure and Environmental Operations Directorate and Security and Professional Standards Directorate. Physical infrastructure items of concern identified as directly related to the incident have already been corrected (see Annex 2 – *Draft Response to Due Diligence Report*). Other items that present security and safety concerns of general order were also identified.

Recommendation #2:

It is recommended that security and safety concerns identified in this report which are not directly related to the incident be addressed on a priority basis as funding becomes available or as part of the fit up process. Recommended changes apply to all IHCs. In addition, the CBSA should develop an Immigration Holding Centre Facility Design Guide which would help address detainee safety and security.

Policies

As a result of the incident at the BCIHC, gaps in national policies and guidelines have been identified.

Observation #3:

Although the CBSA's national detention standards state that "Guards of opposite sex should not enter living quarters alone", they do not explicitly outline the requirement to have a female guard on staff at the Immigration Holding Centre (IHC) at all times.

Recommendation #3:

In consultation with the Detention Working Group, National Headquarters should review the national detention standards on a priority basis to identify opportunities to broaden the standards – such as including a requirement to have a female guard on staff at all times – and strengthen language where required to ensure clear expectations for the immigration holding centres.

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Observation #4:

The CBSA does not have an established national protocol related to public notification of a detainee's death while in CBSA custody in an IHC.

Recommendation #4:

The CBSA should, in consultation with the Privacy Commissioner, explore the development of a national protocol related to public notification of a detainee's death while in CBSA custody in an IHC. Written procedures including roles and responsibilities of CBSA staff in relation to the notification of law enforcement, next of kin, the relevant diplomatic officials, NGOs, other relevant CBSA staff (i.e., Liaison Officers), the media and other relevant parties need to be established to ensure national consistency in notification of such incidents.

Observation #5:

On October 31, 2011, the CBSA issued the national directive on the transfer of medical information of immigration detainees providing functional guidance on the sharing of medical information with respect to immigration detainees who are being transferred between CBSA and non-CBSA facilities (i.e., provincial detention facility). This functional guidance included the requirement to fill out a detainee medical form (http://atlas/forms-formulaires/eb-dgel/bsf674_re.pdf) and to provide a copy to the receiving facility at the time of transfer. This form provides the means by which important medical information is shared.

The directive also includes instructions to arresting officers (POE and inland) that persons arrested and detained at a non-CBSA facility must report any suspected medical concerns regarding the detainee to the detaining authority at the non-CBSA facility upon admission, and must record in his/her notebook that the facility has been advised. This process, as described, only requires verbal communication to the non-CBSA facility and notation in the arresting officer's notebook. It does not require completion of a detainee medical form similar to the one required for a transfer from an IHC to a non-CBSA facility.

Furthermore, there are no established formal means by which CBSA can, in turn, receive medical information about a detained person being transferred from a provincial facility to an Immigration Holding Centre.

Note: This observation is not directly related to the BCIHC incident given there were no indicators for suicide identified while Ms. Vega Jimenez was detained at either the provincial facility or BCIHC. However it is included as an Observation following internal discussions around other potential scenarios whereby a person may be detained at a port of entry or inland and directly transported to a provincial facility.

Recommendation #5:

It is recommended that the national directive be amended requiring that arresting officers complete a detainee medical form when the detained person is being transferred to a non-CBSA facility and shared with the non-CBSA facility upon admission. A copy of the form should also be shared with the applicable Enforcement and Intelligence office that has been assigned the case.

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Furthermore, it is recommended that, in future detention agreements or arrangements with the provinces, CBSA include a clause to ensure sharing of medical information with the CBSA that is critical to ensuring the well-being of the detained individual.

Procedures and Training

Observation #6:

Prior to the incident, the CBSA visited the BCIHC on a bi-weekly basis to ensure management oversight of operations delivered by Genesis Security. Since the incident, the Region has implemented weekly visits to BCIHC by the Detainee Liaison Officer (DLO) in addition to other measures outlined in the Due Diligence Report (i.e., review of logs and CCTV footage). In other IHCs CBSA is present onsite during the work week and on call at other times.

Recommendation #6:

The Region should further strengthen CBSA management oversight of the security contract and BCIHC operations. While CBSA officers interact almost daily with Genesis Security staff at the Pacific Region Inland Enforcement Section when detainees are transported there for interviews and hearings, regular and more frequent visits to the BCIHC would allow for onsite monitoring of detention conditions and operations and identify issues early that may require corrective action. It is recommended that the DLO's roles and responsibilities with respect to the weekly visits be clearly outlined and documented in writing. It is further recommended that CBSA regional management increase the number of meetings with Genesis Security management and, meet on a regular basis to review contract requirements against performance. The frequency of meetings will be established by CBSA regional management in consultation with Genesis Security.

Observation #7:

Based on the accounting of facts outlined in the *Due Diligence Report*, Ms. Vega Jimenez did not, at any point in time during her stay in detention at either of the facilities (Alouette or BCIHC), display any signs that she may attempt suicide. The lack of indicators for risk of suicide in this case raises questions about whether individuals held at the BCIHC awaiting removal should have access to additional counselling or psychiatric care and closer monitoring. Given the BCIHC is a short-term 72-hour detention facility, this type of care has not been offered onsite, unlike services available at the Toronto and Laval IHCs.

Recommendation #7:

Pacific Region should explore the possibility of securing access to counselling services in addition to closer monitoring of individuals held at the BCIHC when removal is imminent. Any new procedures in this regard should be formalized and outlined in a standing order.

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Observation #8:

The current BCIHC standing orders are dated 2009 and therefore do not meet the requirements outlined in the national detention standards for annual review and update.

Recommendation #8:

Pacific Region must review and update the current standing order on a priority basis, and identify gaps and develop additional standing orders where required. Standing orders ensure respect of the national detention standards and provide guidance on expectations related to facility operations.

Observation #9:

Although the national detention standards explicitly state that security guards must successfully complete training in First Aid and CPR, use of restraint equipment, tactical certification and dealing with disruptive behavior, in addition to training on cultural awareness, harassment and relevant IRPA provisions, they do not explicitly state that training in suicide and self-injury prevention is required. "Suicide Prevention Awareness" is a stand-alone item under the requirement for security guards. In the absence of clear language on expectations, guards are generally provided with printed reference material on the subject.

Recommendation #9:

It is recommended that in future security service contracts, IHCs include a requirement that guards assigned to the IHC have received training in suicide and self-injury prevention. It is also recommended that the national detention standards be revised to reflect this requirement and that operational procedures be outlined in IHC standing orders.

Conclusion

The incident served to highlight key issues related to detention policies, procedures and practices both nationally and regionally. The CBSA identified the need to strengthen its national detention standards, bolster CBSA oversight of security contracts and guards on site, and to improve on physical infrastructure elements in the IHCs. The recommendations made in this report will be implemented in 2014-2015.

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Belanger, Jean-Marie

Subject: TIHC SOW - Requirements
Location: Teleconference | 1021 @ 100 Metcalfe in Ottawa

Start: Wed 2014-03-26 01:30 PM
End: Wed 2014-03-26 02:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Mackenzie, Joey
Required Attendees: Joyce, Niky; Gokey, Marie Elizabeth; Helsdon, John; Sarazin, Danielle; Bhatti, Sajjad; Kingsbury, Debra